

REMARKS

Applicant's Comments

Lurie, et al. (U.S. 7,289,612) hereafter referred to as '612 discloses a method and apparatus for ensuring a real-time connection between users and selected service providers using voice mail. The '612 system enables seekers of a wide array of services to select, contact, converse, and pay for a service provider *using a communications device such as the telephone*. A seeker locates a service provider by providing the name of a profession, which is recognized by the system's software. Once a service provider is selected, the system connects the seeker with the service provider for a live conversation. However, during service provider unavailability, the system enables the seeker to leave a voice mail message for the service provider and reconnects the user and service provider once the message is reviewed by the service provider. The system automatically bills the seeker for the time spent conversing with the service provider and compensates the service provider.

In contrast to '612, the present invention does not require the use of a single telephone device, which limits the teaching in '612 to a single voice message. The present invention does not utilize or include a voice mail option as there is no connection formed or based in response to a voice mail as taught by '612.

In the present invention a user initiates a call by selecting a service icon on a website, then decides to whom they wish to speak. Next a username and password is entered to access the system to connect with the Service Provider, the user enters their phone number, and place the call. A pop-up window then provides the user with a rate for the call and account balance. The call is initiated and the system provides the connection means, settles the transaction amount, deducts fees, and provides payment to the Service Provider.

The present invention is a hosting platform for independent advisors and/or agents who build a group of advisors that can then provide advice to users. The platform also provides means for communication and payment settlement.

5 ***Claim Objections***

Claim 15 is objected to under 37 CFR 1.75(c) as being of improper dependant form for failing to further limit the subject matter of a pervious claim. Applicant has amended the claim, changing the dependence of claim 15 from claim 16 or claim 14. Applicant has amended the claim to correct the dependency. Withdrawal of this objection is respectfully requested.

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Rejections Under 35 USC 102

Claims 1, 4-5, 6, 9-14, and 17 stand rejected under 35 USC Section 102(e) as being anticipated in view of Lurie, et al. (U.S. 7,289,612) hereafter referred to as '612. With respect to claims 1, 4-5, 6, 9-14, and 17, Examiner cites '612, stating that it discloses a method of

15 connecting two parties in real time comprising:

- (A) having a User click on an internet-based icon to initiate a live conversation with a Service Provider (Fig. 7);
- (B) Generating a pop-up window with information about said Service Provider (Fig. 4 and col. 6, ll 38-53)
- 20 (C) Checking to see if the Service Provider is available (col. 8, ll 3-10)
- (D) Connecting said User with said Service Provider if available (col. 7, ll 57-61)
- (E) Alerting said User if said Service Provider is not available (col. 6, ll 58-60 and col. 8, ll 7-10)
- (F) allowing said Service Provider to enter their hours of availability (col. 6, ll 54-58)
- 25 (G) displaying said Service Provider's hours of availability within said pop-up window (col. 6, ll 54-59, Fig. 6)
- (H) denying said connection if a User tries to initiate a connection during the hours said Service Provider is scheduled to be not available (Fig. 5)
- (I) prompting said User to send an email to the Service Provider if Service Provider is busy
- 30 or unavailable (Col. 12, ll 12-15 and Fig. 7)
- (J) displaying a compensation rate, based on a period of time, for each Service Provider. (col. 10, ll 17-22)

(K) displaying a text link in said pop-up window to a new popup window displaying Service Providers' profile and history of previous Users' feedback (col. 10, ll 17-22, Fig. 10)

(L) wherein the set of Service Providers is provided in response to a category selection (col. 10, ll 66-67)

(M) after the connection has ended, prompting said User to provide feedback on said Service Provider regarding the quality of said Service Provider's service (col. 8, ll 22-24)

(N) setting up an account for the Service Providers (col. 8, ll 22-24)

(O) crediting the account for an amount based upon how long the connection is maintained (col. 10, ll 5-14)

(P) monitoring how long the telephonic connection is maintained between said User and said Service Provider; (Fig. 10) and

(Q) deducting from said User consumer account an amount based upon how long the telephonic connection is maintained. (col. 10, ll 22-25)

With respect to Claim 1, Claim 1 has been combined with the claim limitation from claim 9. Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration and it is not enough that the prior art reference discloses all the claimed elements in isolation, rather anticipation requires disclosure as arranged in the claim. See. *W.L. Gore & Associates v. Garlock, Inc.* Further anticipation will not be found when the prior art is lacking or missing a specific feature or structure of the claimed invention.

With respect to claim 1, now amended to include the claim limitation previously found in claim 9, the present invention includes the specific limitation of "prompting said User to send an email to the Service Provider if Service Provider is busy or unavailable". Examiner cites '612 Col. 12, ll 12-15 and Fig. 7, but there is no mention, teaching, or suggestion of email delivery.

The '612 system teaches a method and apparatus for ensuring a real time connection between users and service providers requiring the use of a telephone system and voice mail. In the present invention, the system teaches a method and apparatus for ensuring a real time connection between users and service providers that does not use or offer voice mail and provides an Internet platform that provides transaction settlement functions in addition to the communication.

Col. 12, ll 12-15 states "prompted to leave a message....the voice mail message will be

transmitted”. Examiner’s citations clearly do not teach or suggest the use of an email message, but, as with the system of ‘612, require and teach a phone system that uses voice messaging. Withdrawal of this rejection is respectfully requested.

With respect to Claims 4, 5, 6, 9-14 and 17 Applicant relies on the arguments present for claims 1 and 9 above, from which Claims 4, 5, 6, 9-14 and 17 all depend. Withdrawal of this rejection is respectfully requested.

Rejections Under 35 USC 103

A prima facie case of obviousness is established when an examiner provides:

1. one or more references
2. that were available to the inventor and
3. that teach
4. a suggestion to combine or modify the references,
5. the combination or modification of which would appear to be sufficient to have made the claimed invention obvious to one of ordinary skill in the art.

Accordingly, an applicant who is able to prove that the Examiner has failed to establish any one of these elements will prevent the prima facie case of obviousness from being established.

Claim 2 stands rejected under 35 USC 103(a) as being unpatentable over Lurie, et al. (U.S. 7,289,612), hereafter referred to as ‘612, in view of Jolissant, et al. (U.S. Patent 6,463,149) (hereafter referred to as ‘149).

Applicant disagrees that ‘149 teaches having a pop-up window prompting a user to enter their phone number to make a connection. Examiner cites ‘149 col. 6, ll 52-55 which does teach asking a customer or user to enter information such as a phone number, *but not for making a connection*. ‘149 requires the customer information so that it can use the customer information such as a phone number or ID to access database information on a computer about the customer

(‘149 Col. 6, ll57-60). Here ‘149 fails to teach the claim limitation of the present invention and provides no suggestion for its incorporation with ‘612. Examiner states that the motivation to combine is “to have a system that would help identify a user to provide them with the accurate service that they are requesting and to maintain a record. Unfortunately, the ‘149 has an active party in the system that is requesting the information from the user so they can identify them and provide service or record services provided. In the present invention, the Service Provider does not request or need this information. Thus the two systems do not work in any manner that is reflective of the other with the purposes or use for collecting and using the requested information. Withdrawal of this rejection is respectfully requested.

Claims 3 and 7-8 stand rejected under 35 USC 103(a) as being unpatentable over Lurie, et al. (U.S. 7,289,612), hereafter referred to as ‘612 in view of Joyce, et al. (U.S.2005/0086290), hereafter referred to as ‘290.

With respect to claims 3 and 7, Applicant relies on the arguments present for claims 1 and 9 above, from which Claims 3 and 7 depend. Withdrawal of this rejection is respectfully requested.

With respect to claim 8, ‘290 does not teach denying a connection if a User tries to initiate a connection while said provider is busy on another call in Fig. 15 or paragraph 55. ‘290 merely teaches the ability to set a system to an “interrupt status”, but not in response to the service provider being on another call. Here the references fail to teach one of the claim limitations as required for a proper 103 rejection. Withdrawal of this rejection is respectfully requested.

Claims 15-16 stand rejected under 35 USC 103(a) as being unpatentable over Lurie, et al. (U.S. 7,289,612), hereafter referred to as ‘612, in view of Ling (U.S. 2002/0111907) (hereafter referred to as ‘907). With respect to claims 3 and 7, Applicant relies on the arguments present for

claims 1 and 9 above, from which Claims 3 and 7 depend. Withdrawal of this rejection is respectfully requested.

Claim 18 stands rejected under 35 USC 103(a) as being unpatentable over Olshansky (U.S. 6,493,437), hereafter referred to as '437.

5. Respect to the rejection under 35 USC 103(a) as being unpatentable over Olshansky under the obviousness standard, Examiner admits on page 9 that:

- “Olshansky does not explicitly teach dividing the User account balance by the Service provider per minute compensation rate.”
- “Olshansky does not explicitly teach determining total minutes said User can connect to a Service Provider until said User’s account balance reaches zero.”
- “Olshansky does not explicitly teach :extracting Service Provider per minute compensation rate from System Database”.

Examiner’s own words make the possibility of an obviousness rejection impossible under 35 USC 103(a) as Olshansky fails to teach three claim limitations (element 3 of a proper 103 rejection) and the combination or modification of which would appear to be sufficient to have made the claimed invention obvious to one of ordinary skill in the art (element 5 of a proper 103 rejection). Withdrawal of this rejection is respectfully requested.

Even in the event that Examiner intended to state in section 6 of the Office Action dated 12/07/2007 that Claim 18 stands rejected under 35 USC 103(a) as being unpatentable over Olshansky (U.S. 6,493,437) in view of Lurie ('612), Examiner has failed to provide any citation, teaching, or suggestion in either '437 or '612 that makes or suggestions any combination of the two inventions. Withdrawal of this rejection is respectfully requested.

Claim 19 stands rejected under 35 USC 103(a) as being unpatentable over Olshansky (U.S. 6,493,437) in view of Lurie ('612) and further in view of Ling ('420). Applicant relies on the arguments present for claim 18 above, from which Claim 19 depends. Withdrawal of this rejection is respectfully requested.

5. Claim 20 stands rejected under 35 USC 103(a) as being unpatentable over McGregor, et al. Claim 20 has been cancelled making traverse of this rejection moot.

CONCLUSION

For all the reasons advanced above, Applicant respectfully submits that the application is in condition for allowance and that action is earnestly solicited.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely.

Respectfully submitted,



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